

As of May 25, 2010, certain sections and paragraphs of Env-Wt 300, Env-Wt 500, and Env-Wt 800 have been revised as described below. (If a section or paragraph is not identified, no changes have been made.)

→ **The introductory language of Env-Wt 303.02 now reads as follows:**

Env-Wt 303.02 Major Projects. A major project shall be any project that meets any one or more of the following criteria:

→ **Env-Wt 303.02(p) now reads as follows:**

(p) Any project that includes a new or replacement stream crossing which meets the criteria for a tier 3 stream crossing as specified in Env-Wt 904.04(a).

→ **The introductory language of Env-Wt 303.03 now reads as follows:**

Env-Wt 303.03 Minor Projects. A minor project shall be any project that meets any of the following criteria and does not meet any of the criteria specified in Env-Wt 303.02:

→ **Env-Wt 303.03(n) and (o) now read as follows:**

(n) Any project located within the right-of-way of a public highway that meets the criteria of Env-Wt 303.04(j) except that the project includes more than one new tier one stream crossing; and

(o) Any project that qualifies as a minor impact project under Env-Wt 901.03(f).

→ **The introductory language of Env-Wt 303.04 now reads as follows:**

Env-Wt 303.04 Minimum Impact Projects. A minimum impact project shall be any project that meets any of the following criteria and does not meet any of the criteria specified in Env-Wt 303.02 or Env-Wt 303.03:

→ **Env-Wt 303.04(g) through (j) now read as follows:**

(g) Installation of a structure and associated fill to cross wetlands, including streams, to allow vehicular access to a piece of property for forest management, including the transportation of forest products, provided:

- (1) Access shall not be used for subdivision, development, or other land conversion to non-forestry uses, except that forestry uses may be combined with normal agricultural operations or trail construction or maintenance, or both;
- (2) Roadway width at the crossing shall not exceed 20 feet;
- (3) Fill width, measured at toe of roadway side slopes, shall be minimized, and shall not exceed 50 feet;
- (4) Fill for any single crossing shall not exceed 50 feet in length, measured along the proposed access way;
- (5) Crossings of wetlands other than streams shall be limited to those that:
  - a. Do not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone;
  - b. Are not located in or within 100 feet of prime wetlands, unless a waiver has been

granted pursuant to RSA 482-A:11, IV(b);

c. Do not meet the criteria of Env-Wt 303.02(k); and

d. If crossing a swamp or wet meadow, cross those that have no standing water for 10 months of the year;

(6) Temporary stream crossings that do not meet the requirements of Env-Wt 303.05(r) shall be subject to the following:

a. The structure may cross a perennial stream or intermittent stream of any width;

b. The structure may incorporate one or more in-stream piers or posts, limited to one pier or post per 15 feet of span;

c. The structure may incorporate one or more abutments in the bank(s);

d. The crossing shall be removed within 2 years of the date the permit by notification under RSA 482-A:3, V is issued by the department, provided that if weather conditions preclude the removal of the crossing when the work is completed, the crossing may remain in place until weather conditions allow its removal; and

(7) Permanent stream crossings that do not meet the requirements of Env-Wt 303.05(r) shall be subject to the following:

a. The structure may have one or more abutments in the bank(s); and

b. The structure shall only cross a perennial stream or intermittent stream having a scoured channel of 8 feet or less;

(h) Installation of a new bridge or replacement of an existing bridge that does not meet the requirements of Env-Wt 303.05(r) provided that:

(1) No work is done in the water or in a wetland;

(2) No fill is placed in the water or in a wetland;

(3) Impacts to the banks of the watercourse, including bridge structural supports, do not exceed 3,000 square feet;

(4) The bridge is not in a prime wetland, prime wetland buffer, bog, marsh, sand dune, or undisturbed tidal buffer zone; and

(5) The project does not meet the criteria of Env Wt 303.02(k);

(i) Construction of a temporary crossing of a brook, stream, or river for the construction or maintenance of utility pipes or lines, provided the crossing:

(1) Is not in or within 100 feet of prime wetlands, unless a waiver has been granted pursuant to RSA 482-A:11, IV(b);

(2) Is not within 100 feet of the highest observable tide line;

(3) Is removed within 2 years of the date the permit by notification under RSA 482-A:3, XV is issued by the department, provided that if weather conditions preclude the removal of the crossing when the work is completed, the crossing may remain in place until weather conditions allow its removal;

- (4) Does not meet the criteria of Env-Wt 303.02(k); and
  - (5) Does not access property that has been converted from forestry uses to non-forestry uses, except that forestry uses may be combined with normal agricultural operations or trail construction or maintenance, or both;
- (j) Any project not otherwise specified in this section that is located within the right-of-way of a public highway, provided the project:
- (1) Does not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone;
  - (2) Is not in or within 100 feet of prime wetlands, unless a waiver has been granted pursuant to RSA 482-A:11, IV(b);
  - (3) Does not meet the criteria of Env-Wt 303.02(k);
  - (4) Includes only:
    - a. Drainage structures that do not exceed 3,000 square feet of dredge or fill in area; and
    - b. Stream crossings that qualify as minimum impact under Env-Wt 903.01(e); and
  - (5) Meets the following criteria:
    - a. Swamps or wet meadows crossed shall have no standing water for 10 months of the year;
    - b. Fill for any single crossing shall not exceed 50 feet in length, measured along the roadway;
    - c. The fill width, measured at the base of the roadway side slopes, shall be minimized, and shall not exceed 50 feet; and
    - d. Shoulder widening shall not exceed 3 cubic yards of fill per linear foot in wetlands that have no standing water for 10 months of the year, and shall not exceed 10 feet of additional encroachment measured from base of slope;

→ **Env-Wt 303.04(n) now reads as follows:**

- (n) Any project not otherwise specified in this section that alters the course of or disturbs less than 50 linear feet, measured along the thread of the channel, of an intermittent nontidal stream channel or its banks provided construction is performed during periods of non-flow;

→ **Env-Wt 303.04(x) through (z) now read as follows:**

- (x) Maintenance, repair, or replacement of a nondocking structure such as a culvert, headwall, bridge, dam, residential utility line, or rip-rap slope of less than 50 linear feet, provided:
  - (1) No change in location, configuration, construction type, or dimensions is proposed;
  - (2) Any stream crossing work qualifies as minimum impact under Env-Wt 903.01(e)(2) or (3); and
  - (3) The applicant certifies in writing that the structure, in its current location, configuration, construction type and dimensions:

- a. Was previously permitted by the department and has not been abandoned; or
- b. Would be considered grandfathered under Env-Wt 101.43 and has not been abandoned;

(y) Construction or maintenance of trails, including construction or maintenance of crossings that are part of a trail, provided:

- (1) All work is done in accordance with the “Best Management Practices for Erosion Control During Trail Maintenance and Construction”, N.H. department of resources and economic development, copyright 1994, updated 2004;
- (2) Less than 3,000 square feet of jurisdictional area is impacted per crossing;
- (3) The trail width at the crossing does not exceed 20 feet;
- (4) Each new crossing is either:
  - a. A bridge that meets the requirements of (h), above; or
  - b. Any other crossing that meets all of the following conditions:
    - 1. The fill width, measured at toe of trail side slopes, shall be minimized, for example, by making the side slopes steeper and constructing walls, and not exceed 50 feet;
    - 2. Fill for any single wetland crossing shall not exceed 60 feet in length, measured along the centerline of the proposed access way;
    - 3. No impacts shall be allowed to bogs, marshes, sand dunes, tidal wetlands, cedar swamps, or undisturbed tidal buffer zone;
    - 4. The crossing is not located in or within 100 feet of prime wetlands, unless a waiver has been granted pursuant to RSA 482-A:11, IV(b);
    - 5. The project does not meet the criteria of Env-Wt 303.02(k);
    - 6. Any swamps or wet meadows crossed shall have no standing water for 10 months of the year; and
    - 7. Any new stream crossing of a perennial stream or intermittent stream shall cross only those streams having a scoured channel no more than 8 feet wide; and
- (5) Any stream crossing work qualifies as minimum impact under Env-Wt 903.01(e);

(z) Installation of a stream crossing and associated fill to permit vehicular access to a piece of property for a single family building lot, for noncommercial recreational uses including conservation projects, or for normal agricultural operations, provided:

- (1) The total jurisdictional impact shall not exceed 3,000 square feet;
- (2) The roadway width at the crossing shall not exceed 20 feet;
- (3) The fill width, measured at toe of roadway side slopes, shall be minimized, for example, by making the sideslopes steeper and constructing walls, and not exceed 50 feet;
- (4) Fill for any single wetland crossing shall not exceed 60 feet in length, measured along the centerline of the proposed access way; and

- (5) Such projects shall be limited to crossings that:
- a. Do not impact bogs, marshes, sand dunes, tidal wetlands, cedar swamps, or undisturbed tidal buffer zone;
  - b. Are not located in or within 100 feet of prime wetlands, unless a waiver has been granted pursuant to RSA 482-A:11, IV(b);
  - c. Do not meet the criteria of Env-Wt 303.02(k);
  - d. If crossing streams, qualify as minimum impact under Env-Wt 903.01(e); and
  - e. If crossing a swamps or wet meadows, cross those that have no standing water for 10 months of the year;

→ **Env-Wt 303.04(ae) now reads as follows:**

(ae) Installation of residential utility lines and associated temporary impacts to bring utility services to a single family building lot, provided:

- (1) The total jurisdictional impact shall not exceed 3,000 square feet;
- (2) The impact width at the crossing shall not exceed 20 feet;
- (3) Such projects shall be limited to those that:
  - a. Do not impact bogs, marshes, sand dunes, tidal wetlands, cedar swamps, or undisturbed tidal buffer zone;
  - b. Are not located in or within 100 feet of prime wetlands, unless a waiver has been granted pursuant to RSA 482-A:11, IV(b);
  - c. Do not meet the criteria of Env-Wt 303.02(k);
  - d. If crossing a stream, cross channels less than 8 feet wide measured bank to bank; and
  - e. If crossing swamps or wet meadows, cross those that have no standing water for 10 months of the year; and
- (4) All disturbed areas are regraded to original contours and stabilized within 72 hours following completion of work;

→ **Env-Wt 303.04(ag) and (ah) now read as follows:**

(ag) Replacement of an existing stream crossing to access a piece of property for a single family residence or building lot, for noncommercial recreational uses including conservation projects, or for normal agricultural operations, where the contributing watershed is 25 acres or less; or

(ah) Any project that includes any new stream crossing which qualifies as minimum impact under Env-Wt 903.01(e).

→ **The title and introductory language of Env-Wt 303.05 now read as follows:**

Env-Wt 303.05 Projects That Do Not Require a Permit. The following activities shall not require a permit or, unless explicitly stated, a notification to the department:

→ **The introductory language of Env-Wt 303.05(a) now reads as follows:**

(a) Repair or reconstruction of an existing legal structure, other than a stream crossing, that meets the following conditions:

→ **Env-Wt 303.05(f) now reads as follows:**

(f) Installation of a stream crossing in a drainage swale or in an ephemeral stream, or in any area located upstream of where the scouring starts for an intermittent stream or perennial stream;

→ **Env-Wt 303.05(r) now reads as follows:**

(r) Any stream crossing built landward of the top of one bank to landward of the top of the opposite bank so as not to impact jurisdictional areas.

→ **Env-Wt 304.07 now reads as follows:**

Env-Wt 304.07 Embankments Adjacent to Culverts and Other Stream Crossings. Embankments adjacent to culverts and other stream crossings shall have appropriate slope protection, such as vegetated stabilization, rip-rap, or concrete or stone headwalls, where flowing water conditions exist.

→ **Env-Wt 501.02(e) now reads as follows:**

(e) In addition to the information required in (a), above, for all stream crossing projects the applicant shall supply the information specified in Env-Wt 903.03.

→ **Env-Wt 501.04(b) now reads as follows:**

(b) Any minimum impact project that meets the criteria specified in Env-Wt 303.04(a) through (ah) shall be subject to expedited review.

→ **Env-Wt 506.01(a)(8) now reads as follows:**

Env-Wt 506.01 Projects Qualifying for Permit by Notification.

(a) ... *{no change to introductory language}*

(8) The replacement of a culvert or bridge and associated fill to permit vehicular access to one single family residence or building lot or to another property for noncommercial recreational use, including conservation projects, upgraded if necessary to meet the general design considerations specified in Env-Wt 904.01, provided the crossing is located on a watercourse where:

- a. The contributing watershed is less than or equal to 25 acres; and
- b. The criteria in Env-Wt 303.04(z) are met;

→ **Env-Wt 506.01(c) now reads as follows:**

(c) Subdivisions shall not qualify for the permit by notification process.

→ **Env-Wt 506.04(c) now reads as follows:**

(c) For projects classified under Env-Wt 303.04(z) and Env-Wt 303.04(ae) involving stream impacts, the proposed project shall only impact a watercourse with a contributing watershed of 25 acres or less.

→ **Env-Wt 801.01 now reads as follows:**

Env-Wt 801.01 Purpose. The purpose of this chapter is to establish the criteria and procedures for submission and review of compensatory mitigation proposals that compensate for the loss of wetland functions and values resulting from permitted permanent impacts to jurisdictional areas, including permanent impacts to stream banks and stream channels.

→ **Env-Wt 801.03 now reads as follows:**

Env-Wt 801.03 Type of Compensatory Mitigation Required.

(a) The procedure for submittal and review of compensatory mitigation proposals shall be as specified in (b) and (c), below.

(b) The applicant shall first consider permittee-responsible mitigation opportunities and, if permittee-responsible mitigation is feasible, the applicant shall propose such mitigation.

(c) If permittee-responsible mitigation is not feasible for permanent wetlands impacts, the applicant shall provide:

(1) The explanation and documentation relative to preservation of upland buffer specified in Env-Wt 803.07(b);

(2) The explanation and documentation relative to restoration and creation of wetlands on the property specified in Env-Wt 803.07(c); and

(3) Payment of an in-lieu fee that can be pooled with similar payments from other projects as contemplated by RSA 482-A:28.

(d) If permittee-responsible mitigation is not feasible for permanent stream crossing impacts, the applicant shall provide:

(1) An explanation and documentation relative to stream restoration and enhancement activities on the property and within the Hydrologic Unit Code 12 (HUC-12) watershed, as developed by the USGS, as specified in Env-Wt 803.07(c);

(2) An explanation and documentation relative to preservation of uplands specified in Env-Wt 803.07(b); and

(3) Payment of an in-lieu fee that can be pooled with similar payments from other projects as contemplated by RSA 482-A:28.

→ **The introductory language of Env-Wt 803.01(a) now reads as follows:**

(a) For a wetland impact project, a plan and a report, prepared by a qualified professional, that:

→ **Env-Wt 803.01(b) now reads as follows:**

(b) For a stream impact project, a plan and a report, prepared by a qualified professional, that:

(1) Identifies the size and type(s) of jurisdictional area(s) to be impacted;

(2) Identifies the location of the mitigation site with an explanation of how the site meets the goals stated in Env-Wt 803.03;

(3) Explains how the compensatory mitigation proposal adds value to the aquatic resource;

(4) Includes a detailed account of the compensatory mitigation recommendations provided by the conservation commission or governing body from the town in which the project is located, if any; and

(5) For a project having impacts within a designated river corridor as defined by RSA 483:4, XVIII, includes a detailed account of the recommendations provided by the local river management advisory committee established pursuant to RSA 483:8-a; and

→ **The introductory language of Env-Wt 803.01(c) now reads as follows:**

(c) For a wetland impact project or a stream impact project, a functional assessment, prepared by a qualified professional, of the impacted jurisdictional area(s) and proposed mitigation site(s) using:

→ **Env-Wt 803.03 now reads as follows:**

Env-Wt 803.03 Compensatory Mitigation Site Location.

(a) For a project for which permittee-responsible mitigation is proposed, the applicant shall give preference to any mitigation site that:

(1) Is located in the same watershed, as defined in Env-Wt 101, as the impacted jurisdictional area(s); and

(2) Abuts land that already is subject to a conservation interest.

(b) If a stream crossing project is not a replacement for an existing tier 3 stream crossing, the applicant may propose, as mitigation, upgrading a similar tier 2 or tier 3 stream crossing within the same watercourse or in the same town as the project.

→ **Env-Wt 803.05 now reads as follows:**

Env-Wt 803.05 Compensatory Mitigation Ratios.

(a) For permittee-responsible mitigation other than for stream impacts, the applicant shall demonstrate that the compensatory mitigation plan meets or exceeds the ratios listed in Table 800-1, relative to the amount of impacted jurisdictional areas:

TABLE 800-1 Minimum Compensatory Mitigation Ratios

Resource Type	Creation	Restoration	Preservation of Upland Buffer
Bog	N/A	2:1	15:1
Tidal Wetlands	3:1	2:1	15:1
Forested	1.5:1	1.5:1	10:1
Undeveloped Tidal Buffer Zone	N/A	2:1	3:1
All Other Jurisdictional Areas	1.5:1	1:1	10:1

(b) For permittee-responsible mitigation for stream impacts, the applicant shall demonstrate that the total amount of compensatory mitigation area meets or exceeds the total amount of impacted stream area, including the stream bottom and associated stream banks.



→ **Env-Wt 804.02 now reads as follows:**

Env-Wt 804.02 Dimensions.

(a) Subject to (b), below, an upland buffer shall be a minimum of 100 feet wide and contiguous with the protected resource(s).

(b) For permittee-responsible stream mitigation, an upland riparian buffer shall be a minimum of 300 feet in length, as measured parallel to the centerline of the stream, and 100 feet in width, as measured from the top of bank, on both sides of the watercourse.

#### APPENDIX

<b>Rule Section(s)</b>	<b>Statute(s) Implemented</b>
Env-Wt 303.02 intro & new (p); Env-Wt 303.03 intro, new (n) & (o); Env-Wt 303.04 intro, (g)-(j), (n), (x), (y), (z), (ae) & new (ag); Env-Wt 303.05 intro, (a) intro, (f), & (r); Env-Wt 304.07	RSA 482-A:1 & 3; RSA 482-A:11
Env-Wt 501.02 new (e); Env-Wt 506.01(a)(8) & (c); Env-Wt 506.04(c)	RSA 482-A:1 & 3; RSA 482-A:11
Env-Wt 801.01; Env-Wt 801.03; Env-Wt 803.01(a) intro, new (b), & (c) intro; Env-Wt 803.03; Env-Wt 803.05; Env-Wt 804.02	RSA 482-A:3, I; RSA 482-A:11; RSA 482-A:28-33